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I. Introduction

Thank you, Mr. Chairman and Members of the Committee for the opportunity to speak with you today about the Clear Skies Act of 2003. Based on one of the most successful programs created by the Clean Air Act, Clear Skies is a proposal to substantially reduce emissions of the three most harmful pollutants from power generation – and to do so in a way that is much faster and more efficient than under current law.

As President Bush said in the State of the Union Address, Clear Skies will advance our goal of "promot[ing] energy independence for our country, while dramatically improving our environment." The Administration is committed to working with this Subcommittee and Congress to pass legislation this year. The widespread support for multi-pollutant legislation to reduce power plant emissions is a strong indicator that the time for action on this critical issue is now. Failure to enact Clear Skies this year will delay important public health and environmental benefits.

This country should be very proud of the progress we have already made in cleaning up our air. According to the Environmental Protection Agency's (EPA) first *Draft Report on the Environment*, since the Clean Air Act was first enacted in 1970, total national emissions of the six most common air pollutants have been reduced 25 percent. Remarkably, this improvement in national air quality has occurred even while, during the same 30-year period, the U.S. Gross Domestic Product increased 161 percent, energy consumption increased 42 percent, and vehicle miles traveled increased 149 percent.

Although we have made much progress since 1970, we still face major air quality challenges in many parts of the country. Clear Skies is the most important next step we can take to address these challenges and achieve healthy air and a clean environment for all Americans. Clear Skies would make great strides towards solving our remaining air quality problems in a way that also advances national energy security and promotes economic growth. It would reduce power plant emissions of sulfur dioxide (SO_2), nitrogen oxides (NO_X) and mercury by approximately 70 percent from today's levels and do it faster, with more certainty, and at less cost to American consumers than would current law. With Clear Skies, power plants would emit far less over the next decade than they would under the current Clean Air Act. Because of the

innovative cap-and-trade approach used in Clear Skies, power plants would have an incentive to start reducing emissions as soon as Clear Skies is passed, resulting in emissions reductions more quickly than required.

EPA recently updated our analyses of Clear Skies using the most recent air quality data, population census information, and modeling techniques. This modeling represents the most sophisticated, comprehensive, detailed national modeling EPA has ever produced. These analyses reaffirm that Clear Skies would greatly reduce air pollution from power plants while ensuring a reliable, affordable supply of electricity.

When fully implemented, Clear Skies would deliver tens of billions of dollars in annual health benefits, prolong thousands of lives and prevent millions of illnesses each year, provide billions of dollars of economic benefits, and save millions of dollars in health care costs. The added benefit of Clear Skies would virtually assure attainment of the new ozone and particulate matter standards for much of this country, providing air that meets the new, more protective health-based national air quality standards to millions of people. Achieving the national standards has been a problem that has plagued our nation's communities for decades. Clear Skies would also virtually eliminate chronic acidity in northeastern lakes, reduce nitrogen loading in coastal waters, and help restore visibility in our national parks and wilderness areas.

The Clean Air Act has been, and continues to be, a vehicle for great progress in improving the health and welfare of the American people. The Clear Skies Act substantially expands one of the most successful Clean Air Act programs – the Acid Rain Program – and reduces the need to rely on complex and less efficient programs. The result would be significant nationwide human health and environmental benefits; certainty for industry, states and citizens; energy security; and continuing low costs to consumers.

II. Clear Skies Provides Significant Benefits

The heart of Clear Skies is a proven cap-and-trade approach to emissions reductions. Mandatory caps restrict total emissions and decline over time. When fully implemented, Clear Skies would result in a 70% reduction in emissions of SO_2, NO_X and mercury from today's levels. Clear Skies would continue the existing national cap-and-trade program for SO_2, but dramatically reduce the cap from 9 million to 3 million tons. Clear Skies would also use a national cap-and-trade program for mercury that would reduce emissions from the current level of about 48 tons to a cap of 15 tons, and would employ two regional cap-and-trade programs for NO_X to reduce emissions from current levels of 5 million tons to 1.7 million tons.

Although national in scope, Clear Skies recognizes and adjusts for important regional

differences in both the nature of air pollution and the relative importance of emissions from power generation. The eastern half of the country needs reductions in NO_X emissions to help meet the ozone and fine particle standards, which generally are not a regional issue in the western half of the county (with the exception of California, which does not have significant emissions from existing coal-fired power plants). The western half of the country needs NO_X reductions primarily to reduce the regional haze that mars scenic vistas in our national parks and wilderness areas, and the nitrogen deposition that harms fragile forests. Recognizing these regional differences, Clear Skies would establish two trading zones for NO_X emissions and prohibit trading between the zones to ensure that the critical health-driven goals in the East are achieved.

Clear Skies also recognizes the special visibility protection measures that have been developed by states participating in the Western Regional Air Partnership (WRAP). Clear Skies would essentially codify the WRAP's separate SO_2 backstop cap-and-trade program, which would come into effect only if the WRAP states did not meet their 2018 SO_2 emissions targets.

Finally, Clear Skies requires tough, technology-based new source standards on all new power generation projects and maintains special protections for national parks and wilderness areas when sources locate within 50 km of "Class I" national parks and wilderness areas.

Significant Public Health and Environmental Benefits

The public health and environmental benefits of Clear Skies present compelling reasons for its immediate passage. EPA's new analysis projects that, by 2010, reductions in fine particle and ozone levels under Clear Skies would result in billions of dollars in health and visibility benefits nationwide each year, including prolonging as many as 7,900 lives annually. Using an alternative methodology, Clear Skies would prolong 4,700 lives annually by 2010. EPA's base methodology for calculating benefits shows that Americans would experience significant health benefits each year by 2020, including:

- 14,100 fewer premature deaths;
- 8,800 fewer cases of chronic bronchitis;
- 23,000 fewer non-fatal heart attacks;
- 30,000 fewer visits to hospitals and emergency rooms for cardiovascular and respiratory symptoms, including asthma attacks; and
- 12.5 million fewer days with respiratory illnesses and symptoms.

Using an alternative methodology, by 2020 Americans would experience 8,400 fewer premature deaths each year.

We have not developed methodologies for quantifying or monetizing all the expected benefits of Clear Skies. Still, under all of our analytical approaches, it is clear that the benefits far exceed the costs. EPA estimates that the monetized value of the health benefits we can quantify under Clear Skies would be $110 billion annually by 2020 -- substantially greater than the projected annual costs of approximately $6.3 billion. An alternative approach projects annual health benefits of $21 billion, still significantly outweighing the costs. The Agency estimates an additional $3 billion in benefits from improving visibility at select national parks and wilderness areas. These estimates do not include the many additional benefits that cannot currently be monetized but are likely to be significant, such as human health benefits from reduced risk of mercury emissions, and ecological benefits from improvements in the health of our forests, lakes, and coastal waters.

Clear Skies would achieve most of these benefits by dramatically reducing fine particle pollution caused by SO_2 and NO_X emissions, which is a year-round problem. Of the many air pollutants regulated by EPA, fine particle pollution is perhaps the greatest threat to public health. Hundreds of studies in the peer-reviewed literature have found that these microscopic particles can reach the deepest regions of the lungs. Exposure to fine particles is associated with premature death, as well as asthma attacks, chronic bronchitis, decreased lung function, and respiratory disease. Exposure is also associated with aggravation of heart and lung disease, leading to increased hospitalizations, emergency room and doctor visits, and use of medication.

By reducing NO_X emissions, Clear Skies also would reduce ozone pollution in the eastern part of the country and help keep ozone levels low in the western portion of the country. Ozone (smog) is a significant health concern, particularly for children and people with asthma and other respiratory diseases who are active outdoors in the summertime. Ozone can exacerbate respiratory symptoms, such as coughing and pain when breathing deeply, as well as transient reductions in lung function and inflammation of the lung. Ozone has also been associated with increased hospitalizations and emergency room visits for respiratory causes. Repeated exposure over time may permanently damage lung tissue.

Clear Skies would help move us from a situation where nearly every major urban area is projected to be out of attainment with the ozone and fine particle standards, to a scenario where only a few major cities would continue to have nonattainment problems. Based on current data (1999-2001 data), 129 counties nationwide (114 counties in the East) currently exceed the fine particle standard and 290 counties nationwide (268 counties in the East) currently exceed the new ozone standard. As a result, 45% of all Americans live in counties where monitored air was unhealthy at times because of high levels of fine particles and ozone. Clear Skies would dramatically reduce that number. By 2020, the combination of Clear Skies, EPA's proposed rule to decrease emissions from nonroad diesel engines, and other existing state and federal control programs, such as pollution controls for cars and trucks, would bring all but 18 counties nationwide (including only 8 counties in the East) into attainment with the fine particle standards

and all but 27 counties nationwide (including only 20 counties in the East) into attainment with the ozone standards. Even in the few areas that would not attain the standards, Clear Skies would significantly improve air quality. This would make it easier for state and local areas to achieve the new ozone and fine particle standards. Throughout the West, Clear Skies would hold emissions from power plants in check, preserving clean air in high-growth areas and preventing degradation of the environment, even as population and electricity demand increase.

[See Attached Figures 1 and 2, Attainment with Fine Particle and Ozone Standards]

Clear Skies would also reduce mercury emissions from power plants. EPA is required to regulate mercury because EPA determined that mercury emissions from power plants pose an otherwise unaddressed significant risk to health and the environment, and because control options to reduce this risk are available. Mercury, a potent toxin, can cause permanent damage to the brain and nervous system, particularly in developing fetuses when ingested in sufficient quantities. People are exposed to mercury mainly through eating fish contaminated with methylmercury.

Mercury is released into the environment from many sources. Mercury emissions are a complex atmospheric pollutant transported over local, regional, national, and global geographic scales. EPA estimates that 60% of the mercury falling on the U.S. is coming from current man-made sources. Power generation remains the largest man-made source of mercury emissions in the United States. In 1999, coal-fired power plants emitted 48 tons of mercury (approximately 37% of man-made total). These sources also contribute one percent of mercury to the global pool.

Mercury that ends up in fish may originate as emissions to the air. Mercury emissions are later converted into methylmercury by bacteria. Methylmercury accumulates through the food chain: fish that eat other fish can accumulate high levels of methylmercury. EPA has determined that children born to women who may have been exposed to high levels may be at some increased risk of potential adverse health effects. Prenatal exposure to such levels of methylmercury may cause developmental delays and cognitive impairment in children. Clear Skies will require a 69% reduction of mercury emissions from power plants.

In addition to substantial human health benefits, Clear Skies would also deliver numerous environmental benefits. Nitrogen loads to the Chesapeake Bay and other nitrogen sensitive estuaries would be reduced, reducing potential for water quality problems such as algae blooms and fish kills. In fact, the Chesapeake Bay States, including NY, VA, MD, PA, DE, WV and DC, recently agreed to incorporate the nitrogen reductions that would result from Clear Skies legislation as part of their overall plan to reduce nutrient loadings to the Bay. Clear Skies would also accelerate the recovery process of acidic lakes, eliminating chronic acidity in all but 1% of

Northeastern lakes by 2030. For decades fish in the Adirondacks have been decimated by acid rain, making many lakes completely incapable of supporting populations of fish such as trout and smallmouth bass. The Acid Rain Program has allowed some of these lakes and the surrounding forests to begin to recover; Clear Skies would eliminate chronic acidity in Adirondack region lakes by 2030. Clear Skies would also help other ecosystems suffering from the effects of acid deposition by preventing further deterioration of Southeastern streams. Finally, Clear Skies would improve visibility across the country, particularly in our treasured national parks and wilderness areas, resulting in improvements of approximately two to seven miles in visual range in many areas. For example, in the Southeast, Clear Skies would improve the visual range by two to four miles.

Clear Skies is designed to ensure that these public health and environmental benefits are achieved and maintained. By relying on mandatory caps, Clear Skies would ensure that total power plant emissions of SO_2, NO_X and mercury would not increase over time. This is a distinct advantage over traditional command-and-control regulatory methods that establish source-specific emission rates but which allow total emissions to increase over time. Like the Acid Rain Program, Clear Skies would have much higher levels of accountability and transparency than most other regulatory programs. Sources would be required to continuously monitor and report all emissions, ensuring accurate and complete emissions data. If power plants emit more than allowed, financial penalties are automatically levied – without the need for an enforcement action. More importantly, every ton emitted over the allowed amount would have to be offset in the following year, ensuring no net environmental harm. This high level of environmental assurance is rare in existing programs; Clear Skies would make it a hallmark of the next generation of environmental protection.

Reasonable Costs and Energy Security for Consumers and Industry

The President directed us to design Clear Skies to meet both our environmental and our energy goals. Under Clear Skies, electricity prices are not expected to be significantly impacted. Our extensive economic modeling of the power industry looked at a broad array of factors to gauge the effects of Clear Skies on the energy industry – and they all show that cleaner air and energy security can go hand-in-hand.

Clear Skies would maintain energy diversity. With Clear Skies, coal production for power generation would be able to grow by 10 percent from 2000 to 2020 while air emissions are significantly reduced. EPA's extensive economic modeling for Clear Skies demonstrates that the proposal's emission reductions would be achieved primarily through retrofitting controls on existing plants. Clear Skies's timeframe and certainty enable the power sector to meet aggressive emission reduction targets without fuel switching. This is important not only to power generators and their consumers who want to continue to rely on our most abundant,

reliable, affordable and domestically secure source of energy, but also to other consumers and industries whose livelihoods could be hurt by a rise in natural gas prices. Our analysis shows that Clear Skies would have little effect on natural gas prices.

Under Clear Skies by 2010, more than two-thirds of U.S. coal-fired generation is projected to come from units with billions of dollars of investment in advanced SO_2 and/or NO_X control equipment (such as scrubbers and Selective Catalytic Reduction, which also substantially reduce mercury emissions). In 2020, the percentage is projected to rise to over 80 percent. Cost effective strategies and technologies for the control of sulfur dioxide and nitrogen oxides emissions exist now, and – thanks in good part to the Clear Skies market-based system – improved methods for these pollutants, and for mercury, are expected to become increasingly cost-efficient over the next several years. In fact, the Institute of Clean Air Companies forecasts that the U.S. markets for most technology sectors will remain fairly strong, adding momentum to the air pollution control technology industry. We expect that the Clear Skies Act will provide great benefits to American jobs in the engineering and construction industries.

One of the key reasons Clear Skies would be cost-effective is its reliance on cap-and-trade programs. Like the Acid Rain Program upon which it is based, Clear Skies would give industry flexibility in how to achieve the needed emission reductions, which allows industry to make the most cost-effective reductions and pass those savings on to consumers. Power plants would be allowed to choose the pollution reduction strategy that best meets their needs (e.g., installing pollution control equipment, switching to lower sulfur coals, buying excess allowances from plants that have reduced their emissions beyond required levels). Like the Acid Rain program, Clear Skies includes banking provisions, enabling companies to save unused allowances for future use. Banking creates a tangible, quantifiable, economic incentive to decrease emissions beyond allowable levels, which EPA projects will result in significant early benefits due to over-compliance in the initial years, particularly for SO_2. It also leads to gradual emissions reductions over time, and therefore a less disruptive transition to tighter emission controls needed to address lingering problems. Based on past experience under the Acid Rain Program, by placing a monetary value on avoided emissions, Clear Skies would stimulate technological innovation, including efficiency improvements in control technology, and encourage early reductions.

EPA's models, however, do not predict this technological innovation. The updated analyses show that mercury control costs would be higher than were estimated last year. We are still in the early stages of understanding how different technologies will affect mercury emissions from power plants because mercury is not currently regulated in the power sector. There is an ongoing dynamic research process sponsored by EPA, the Department of Energy (DOE), the Electric Power Research Institute (EPRI), and vendors specifically aimed at furthering our understanding of mercury control, with new data being made available on a continuous basis.

Over the last year, both EPA and DOE's Energy Information Agency (EIA) used updated information to reassess what mercury emissions levels would be in 2010 after installation of NOx and SO2 controls necessary to meet the Clear Skies' SO2 and NOx caps (NOx and SO2 control equipment also reduce some mercury emissions – i.e., "cobenefit" reductions). Due to differences in assumptions and models, the Administration estimates that these mercury emissions would range from 34 to 46 tons. EIA's and EPA's updated analyses estimate the incremental cost now of complying with the 2010 cap to be $650 to $750 million per year.

A key feature of understanding this cost is the Clear Skies' safety valve provision that sets a maximum cost of $35,000 per pound of mercury emissions. The safety valve is designed to minimize unanticipated market volatility and provide more market information that industry can rely on for compliance decisions. The updated modeling projects that the safety valve provision would be triggered if technology does not improve in the future (the modeling does not include any assumptions about how technology will improve). If the safety valve is triggered, EPA will borrow allowances from the following year's auction to make more allowances available at the safety valve price. The future year cap is reduced by the borrowed amount, and the emissions reductions are ultimately achieved.

EPA believes that, as technology develops, the cost of mercury controls will decrease. If it does not, the new analyses project greater mercury emissions in 2020 than did the 2002 analyses due to the triggering of the safety valve.

Assistance to State and Local Governments

Under the current Clean Air Act, state and local governments face the daunting task of meeting the new fine particle and ozone standards. Clear Skies would substantially reduce that burden. By making enormous strides towards attainment of the fine particle and ozone standards, Clear Skies would assist state and local governments in meeting their obligation under the Clean Air Act to bring areas into attainment with these health-based standards, and provide Americans with cleaner air.

As noted previously, the combination of Clear Skies, EPA's proposed rule to decrease emissions from nonroad diesel engines, and other existing state and federal control programs – such as pollution controls for cars and trucks – would, by 2020, bring all but 18 counties nationwide (including only 8 counties in the East) into attainment with the fine particle standards and all but 27 counties nationwide (including only 20 counties in the East) into attainment with the ozone standards. Even in the few areas that would not attain the standards, Clear Skies would significantly improve air quality. This would make it easier for state and local areas to reach the ozone and fine particle standards.

Clear Skies' assistance to states goes beyond ensuring that power plants will reduce their emissions. Clear Skies relies on a common-sense principle – if a local air quality problem will be solved in a reasonable time frame by the required regional reductions in power plant emissions, we should not require local areas to adopt local measures. Under Clear Skies, areas that are projected to meet the ozone and fine particles standards by 2015 as a result of Clear Skies would have a legal deadline of 2015 for meeting these standards (i.e., will have an attainment date of 2015). These areas would be designated "transitional" areas, instead of "nonattainment" or "attainment," and would not have to adopt local measures (except as necessary to qualify for transitional status). They would have reduced air quality planning obligations and would not have to administer more complex programs, such as transportation conformity, nonattainment New Source Review, or locally-based progress or technology requirements in most circumstances.

III. Improving the Clean Air Act With Clear Skies

Clear Skies would improve the Clean Air Act in a number of ways. It would build on the proven portions of the Clean Air Act – like the national ambient air quality standards and the Acid Rain Program – and reduce reliance on complex, less efficient requirements like New Source Review for existing sources. The mandatory emissions caps at the heart of Clear Skies guarantee that reductions will be achieved and maintained over time. In contrast, uncertainties with respect to regulatory development, litigation, and implementation time make it difficult to estimate how quickly and effectively current regulations would be implemented under the current Clean Air Act. The level of SO_2 and NO_X reductions we expect by 2010 with Clear Skies legislation would not be achieved under the existing Act. After that, we know that Clear Skies would achieve significant reductions, while both the timing and level of reductions under the current Clean Air Act are unclear.

Early Reductions

One of the major reasons we need Clear Skies now is that adoption of Clear Skies would provide greater protection over the next decade than the traditional regulatory path. The Clear Skies Act will result in significant over-compliance in the early years, particularly for SO_2, because sources are allowed to bank excess emissions reductions. Because of the incentives provided by the cap-and-trade approach used in Clear Skies, power plants would start reducing emissions almost as soon as Clear Skies is passed. Without Clear Skies, EPA and the states will have to go through regulatory processes to put the necessary emission control programs in place. These regulatory processes take years and are subject to litigation – and power plants would have no incentive to reduce emissions before the outcome of those regulatory processes were known.

As a result, emission reductions under Clear Skies would start years earlier than under the current regulatory approach. Clear Skies' emissions reductions would cost less since EPA does not have statutory authority under the current Clean Air Act to design an integrated program that is as cost-effective as Clear Skies. Every year that emissions reductions are delayed, we delay the health and environmental benefits that would be achieved if Clear Skies were to become law.

Our analysis suggests that the amount of pollution controls that the industry will have to install under Clear Skies over the next decade will stretch the limits of available labor and other construction resources, but can in fact be accomplished while maintaining energy reliability and continuing competitive electricity prices.

Legislation Now Is Better than Regulation Followed by Years of Litigation

Even if Clear Skies is not passed by Congress, power plants will be required to reduce their emissions of SO_2, NO_X and mercury. There is no more cost-effective way than Clear Skies to meet the requirements of the current Clean Air Act or to achieve our public health and environmental goals. We know that, absent new legislation, EPA and the states will need to take a number of regulatory actions, although it is unclear now when the requirements will come into effect or what their control levels will be.

Clear Skies has several benefits over the regulatory scheme that will otherwise confront power generators. Clear Skies provides regulatory certainty and lays out the timeframes necessary for managers to design a cost effective strategy tailored to both their current budgets and future plans. Clear Skies is designed to go into effect immediately upon enactment. Power plants would immediately understand their obligations to reduce pollution and would be rewarded for early action. As a result, public health and environmental benefits would begin immediately and result in emissions reductions more quickly than required. Given Clear Skies' design, it is unlikely that litigation could delay the program (particularly since Congress would decide the two most controversial issues – the magnitude and timing of reductions). In contrast, under the current Clean Air Act, power plants would not know what their obligations would be until after EPA and states started and completed numerous rulemakings.

Past experience suggests that litigation delays on the regulatory path are likely. Our experience with two cap-and-trade programs – the legislatively-created Acid Rain Trading Program and the administratively-created NO_X SIP Call – illustrates the benefits of achieving our public health and environmental goals with legislation rather than relying solely on existing regulatory authority.

Though we project a great deal of benefits will arise from implementation of the NO_X SIP

call, the journey down the regulatory path has been difficult and is not yet over. The NO_X SIP call was designed to reduce ozone-forming emissions by one million tons across the eastern United States. The rulemaking was based on consultations begun in 1995 among states, industry, EPA, and nongovernmental organizations. A federal rule was finalized in 1998. As a result of litigation, one state was dropped and the 2003 compliance deadline was moved back for most states. Most states are required to comply in 2004, although two states will have until 2005 or later. Meanwhile, sources in these states continue to contribute to Eastern smog problems. Although the courts have largely upheld the NO_X SIP Call, the litigation is not completely over. Industry and state challenges to the rules have made planning for pollution control installations difficult, raised costs to industry and consumers, and delayed health and environmental benefits.

In contrast, reductions from the Acid Rain Program began soon after it passed (even before EPA finalized implementing regulations). There were few legal challenges to the small number of rules EPA had to issue – and none of the challenges delayed implementation of the program. The results of the program have been dramatic – and unprecedented. Compliance has been nearly 100 percent. Reductions in power plant SO_2 emissions were larger and earlier than required, providing earlier human health and environmental benefits. Now, in the ninth year of the program, we know that the greatest SO_2 emissions reductions were achieved in the highest SO_2-emitting states; acid deposition dramatically decreased over large areas of the eastern United States in the areas where they were most critically needed; trading did not cause geographic shifting of emissions or increases in localized pollution (hot spots); and the human health and environmental benefits were delivered broadly. The compliance flexibility and allowance trading has reduced compliance costs by 75 percent from initial EPA estimates.

[See 2001 Acid Rain Program Progress Report submitted for the record.]

It is clear from this example that existing regulatory tools often take considerable time to achieve significant results, and can be subject to additional years of litigation before significant emissions reductions are achieved. Under this scenario, there are few incentives to reduce emissions until rules are final and litigation is complete, posing potentially significant delays in achieving human health and environmental benefits.

The Clean Air Act contains several provisions under which EPA will be required to impose further emission controls on power plants in order to enable states to meet the new national ambient air quality standards (NAAQS) for PM2.5 and ozone. For example, Section 126 of the Clean Air Act provides a petition process that states can use to force EPA to issue regulations to reduce emissions of SO_2 and NO_X from upwind sources, including power plants. A number of states have indicated that they intend to submit Section 126 petitions in the near future. However, compared to Clear Skies, this approach will almost certainly involve years of litigation and uncertainty about reduction targets and timetables.

Additional reductions are required from power plants through the regional haze rule's BART (Best Available Retrofit Technology) requirements and forthcoming mercury MACT (maximum achievable control technology) requirements. EPA is required to propose by the end of 2003 a MACT standard for utility mercury emissions that must be met, plant-by-plant, by every coal-fired utility with unit capacity above 25 megawatts. EPA is required to finalize this rule by the end of 2004. The Act generally gives sources three years within which to comply with MACT standards. This compliance obligation could be delayed by a court if EPA's rule is challenged.

Because these regulations will be the product of separate federal, state and judicial processes, comparable health and environmental protection is likely to cost more under the current Clean Air Act than under Clear Skies. EPA estimates that a comprehensive, integrated approach relying on cap-and-trade programs could reduce costs by one-fourth as compared to the regulatory approach achieving comparable emission reductions. These cost savings would be passed on to the public through lower electricity prices and greater profitability to investors and owners of electric generation.

New Source Review

Some have suggested that Clear Skies is an attempt to undermine the Clean Air Act. This is simply not true. To achieve the next generation of environmental progress, we must build on the successful provisions in laws that have served us well – and learn from those provisions that have not served us well, or have had only limited success. New Source Review (NSR) is an example of a program that EPA and stakeholders have long recognized is not working well.

There is a misconception that the principal goal of the NSR program is to reduce emissions from power plants. This is simply incorrect. Reducing emissions from power plants is the principal goal of Clear Skies. The NSR program is triggered only when facilities emitting large amounts of air pollution are built, and when modifications at these facilities result in significant increases in air pollution. The NSR program is not designed to result in nationwide reductions of air pollution from power plants. When it comes to reducing harmful air emissions from power plants, Clear Skies would accomplish more than NSR. Figure 3 illustrates how the coordinated reductions that result from Clear Skies would improve air quality in the air shed that affects the Great Smoky Mountains National Park. In our estimate, such significant regional improvements could not be obtained in this time frame under the NSR framework.

Clear Skies would significantly modify the NSR program for power plants, but contain some important backstops. We expect that existing power plants would not have to go through NSR for modifications. New sources would no longer have to go through the entire NSR process, but some aspects of the process would still apply. Although we believe that with a tight cap on

emissions, new sources will always install good controls, we did not want to run the risk that a new source would be uncontrolled. Therefore, as a backstop, Clear Skies would require all new power plants to meet New Source Performance Standards (NSPS) that are set in the statute at levels significantly more stringent than current NSPS levels.

In addition, new power generators locating within 50 km of a Class I area (e.g., national parks or wilderness areas) would still be subject to the current NSR requirements for the protection of those areas. Finally, new power plants will also have to meet the current NSR requirements that they will not cause or contribute to a violation of the national ambient air quality standards.

IV. Window of Opportunity

Because of the lessons learned over the last decade, there is increasing support for legislation such as Clear Skies that would significantly reduce and cap power plant emissions and create a market-based system to minimize control costs. From environmental groups to coal companies, there is increasing broad-based support demonstrating that multipollutant legislation is a preferable path to cleaner air. Such an approach would address an array of air pollution concerns associated with power generation – including fine particles, smog, mercury deposition, acid rain, nitrogen deposition, and visibility impairment – at lower cost and with more certainty than currently allowed by the Clean Air Act.

There is no better time for Congress to be considering multipollutant legislation. President Bush has indicated that Clear Skies is his top environmental priority. The number of proposals being considered by Congress also indicates a consensus behind the basic idea of a multipollutant cap-and-trade approach. Organizations including the National Governors Association, U.S. Conference of Mayors, National Association of Counties, Large Public Power Council, Edison Electric Institute, Adirondack Council, and numerous individual utilities have all expressed support for the scope and framework of Clear Skies. If legislation passes quickly, we will begin achieving emissions reductions and related health benefits now, not years from now. Congress needs to act now so that we do not lose a decade's worth of health and environmental benefits from reducing fine PM pollution, smog, acid deposition, nitrogen deposition, and regional haze. Further, as EPA continues to implement additional forthcoming regulations under the existing framework of the Act, the likelihood of our ability to pursue an integrated program diminishes – and with it diminish the numerous advantages that I have delineated today of an approach like Clear Skies.

Legislation is also needed now to help states with their air quality planning and provide incentives for industry innovation, which, in turn, would lower costs and emissions. Such incentives are particularly compelling this year as we approach the task of reducing mercury

emissions from the power industry. If designed correctly, legislation could provide the incentive that spurs technological innovation. When stringent yet flexible mechanisms exist, substantial technological improvements and steady reductions in control costs can be expected to follow.

I hope this Congress will concur that there is no better time to pass this important legislation. Every day that passes represents a lost opportunity to reduce emissions and reap human health and environmental benefits. The "regulatory window" is open now, allowing Congress to pass Clear Skies, based on a proven program, before EPA and the states must embark on a more complex and expensive traditional regulatory process. Clear Skies provides a balanced approach that our nation needs for meeting clean air goals, while safeguarding our economy and promoting energy security. In short, Clear Skies is a clear win for the American people.